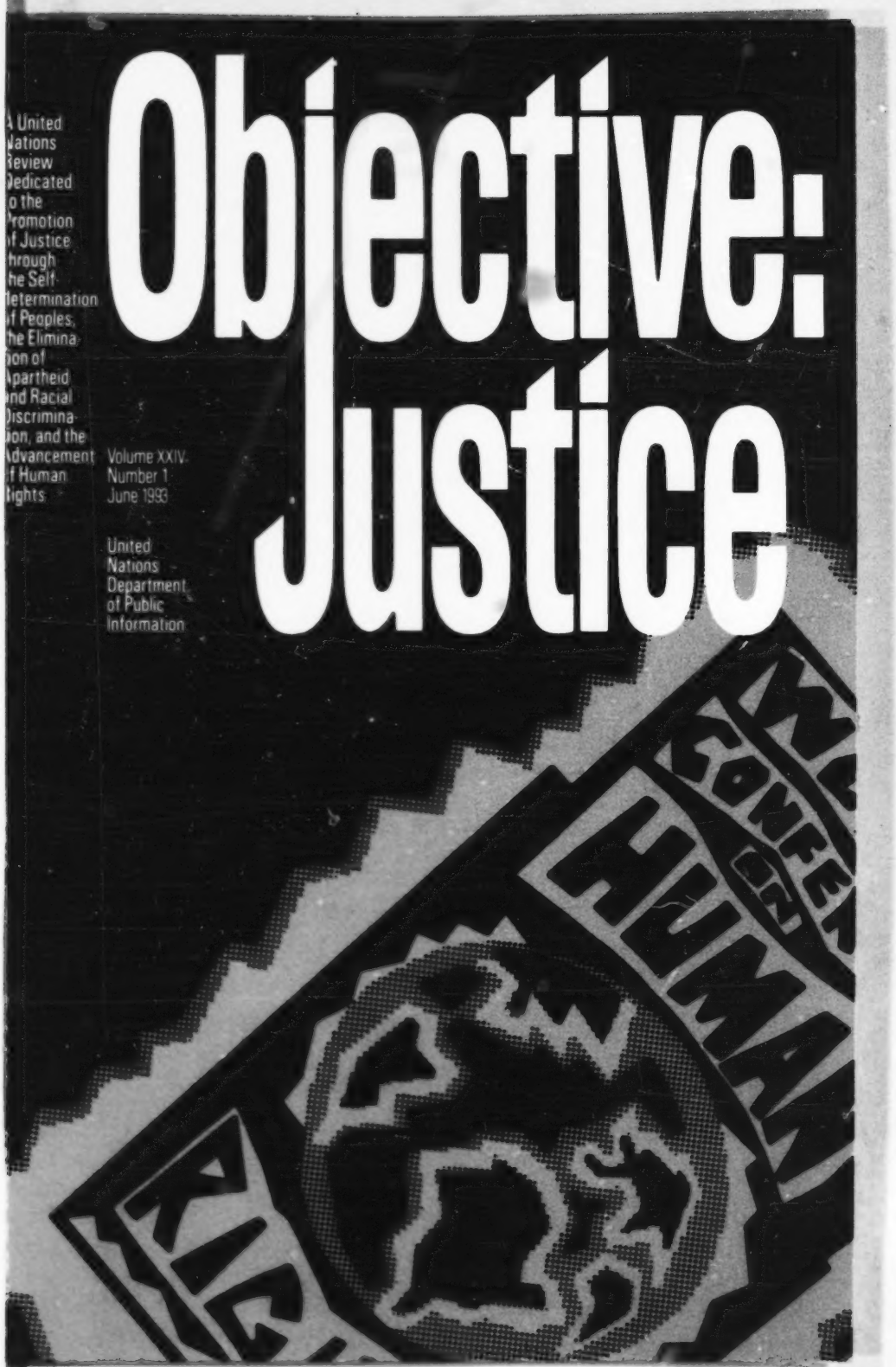
# Objective: Justice

A United Nations Review Dedicated to the Promotion of Justice through the Self-Determination of Peoples, the Elimination of Apartheid and Racial Discrimination, and the Advancement of Human Rights

Volume XXIV
Number 1
June 1993

United Nations Department of Public Information



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Vol.XXIV No.1
United Nations Department of Public Information

## United Nations Prepares for Global Review of Human Rights

Forty-five years ago, the 58-member United Nations adopted the Universal Declaration of Human Rights, a seminal statement eloquently sketching the inalienable rights with which all of us are born.

Since then, the United Nations has slowly and methodically agreed to a body of human rights covenants, protocols and declarations further defining our collective economic, social, cultural, political and civil rights, and creating a system to protect them.

While few dispute the enormous progress made in spelling out these rights, it is equally undisputed that human rights continue to be violated everywhere, often on a massive scale.

This contradiction lies at the heart of the decision by the United Nations General Assembly, now made up of 180 Member States, to convene a World Conference on Human Rights, to be held in Vienna from 14 to 25 June 1993.

The World Conference will review the progress made since the last world conference in Teheran in 1968, explore the possibilities for further refining the five categories of human rights, and seek ways to improve and strengthen the existing systems for promoting and protecting human rights at the international, regional and national levels. A primary aim will be to make protection of human rights an integral component of social and economic development worldwide.

United Nations Secretary-General Boutros Boutros-Ghali articulated the underlying philosophy on Human Rights Day 1992: "Full human dignity means not only freedom from torture, but also freedom from starvation. It means freedom to vote as it means the right to education. It means freedom of belief as it means the right to health. It means the right to enjoy all rights without discrimination. And true development requires a solid base of democracy and popular participation."

Several current factors may facilitate the effort to realize these goals: the United Nations' heightened emphasis on democracy and people-centred development; recent steps in many countries towards more participatory political systems; and the increasing globalization of the mass media, which has raised awareness of human rights issues everywhere.

At the same time, the meeting will have to address recent developments that have put the human rights of millions of people in grave jeopardy: the frightening spread of ethnic, national and religious conflicts; the deterioration of many countries' economies and the widening gap between rich and poor; and growing environmental crises related to unsustainable use of resources and rapid population growth.

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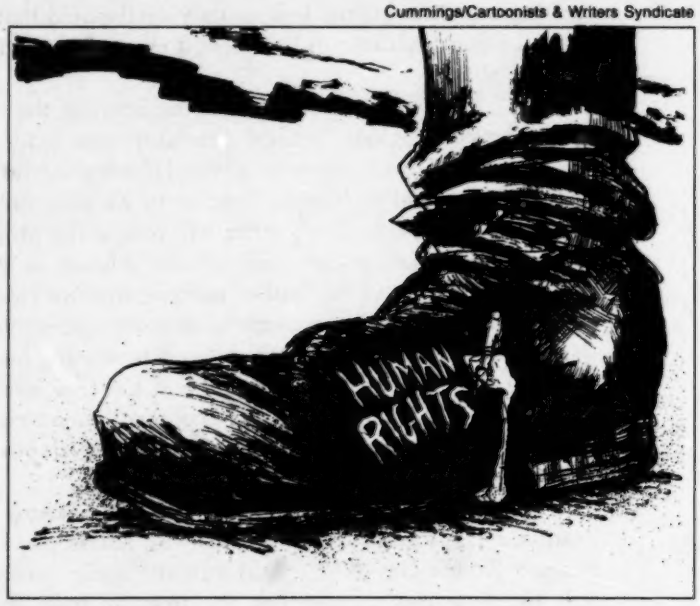


The Universal Declaration spelt out such basic rights as legal equality, freedom from torture, freedom of religion, the right to vote and the right to an adequate living standard. Many of these were given the force of law in

two International Covenants on human rights which were approved in 1966 and took effect in 1976, and in specific conventions adopted over the years which ban, among other things, genocide, racial discrimination, discrimination against women, and punishment that is cruel, inhuman or degrading.

Various bodies monitor compliance with these treaties, communicate with Governments—with varying degrees of success—when violations are reported, and encourage them to implement the treaties (see article below).

Nicolielo/Cartoonists & Writers Syndicate

This framework of treaties and implementation measures has had a tremendous impact, helping to create an international culture of respect for human rights. Provisions of the treaties have been written into national legislation. Intervention by United Nations rapporteurs and the spotlight of world attention have prevented executions and won the release of prisoners.

It is apparent, though, that many people around the world continue to be deprived of fundamental rights, and that the international community needs to do more to help them.

## The World Conference

With this in mind, the United Nations General Assembly resolved in December 1990 to convene the 1993 World Conference, after having asked the Secretary-General to solicit input from Governments, United Nations agencies and human rights non-governmental organizations (NGOs). The last similar gathering, the International Conference on Human Rights, was held in Teheran in 1968.

The Assembly resolution outlined several objectives for the Conference: to assess progress in the human rights field since the 1948 Universal Declaration, and to identify ways to overcome obstacles to further progress; to examine the relationship between development and the universal application of human rights; to find ways to better implement human rights standards and treaties, and to strengthen United Nations monitoring and promotional mechanisms; and to recommend ways to ensure the necessary financial resources.

Funding for the World Conference will come from the regular United Nations budget; voluntary contributions have been received to meet the cost of participation by the least-developed countries. The United Nations Centre for Human Rights, which is the focal point for human rights issues at the United Nations, is the conference secretariat, overseeing substantial preparations that have been under way for more than two years.

The conference agenda, approved by the General Assembly in December 1992, incorporates these aims, while underscoring the "indivisibility of economic, social, cultural, civil and political rights".

After some debate, it was agreed that the gathering will have a focus that is broad rather than specific, and will not be a forum for allegations of human rights violations in particular countries. Rather, the intent is to find

ways to make existing organizations and processes work better; strengthen international, regional and national systems of justice, and coordination among them; improve mechanisms for monitoring human rights and reporting violations; and revise legal instruments or implementation methods to better protect vulnerable groups.

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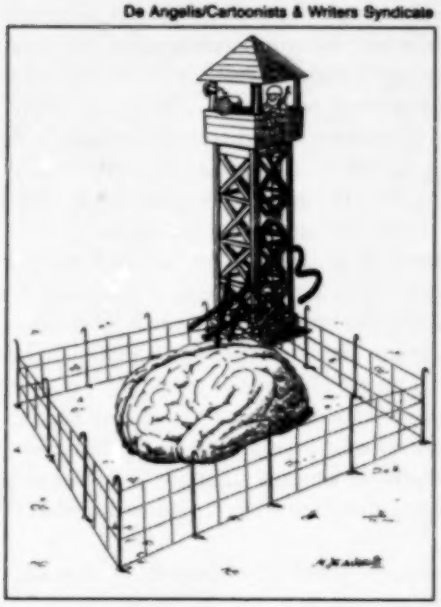

The 1990 Assembly resolution emphasized the need to create the conditions that would allow all people to fully enjoy the broad range of human rights. Accordingly, one agenda item focuses on the relationship of development to democracy and the universal enjoyment of human rights. An active debate is taking place in this regard between developing nations that want greater priority given to the "right to development" and industrial countries that place more emphasis on political and civil rights (see article below).

## Greater Protection for Vulnerable Groups

These different perspectives may be reflected during debate over recommendations for ensuring "universality, objectivity and non-selectivity" in the application of human rights, with some countries that depend on development assistance objecting to standards of human rights compliance imposed by donors as conditions of further aid.

The question of national sovereignty, a fundamental tenet of the United Nations Charter, lies at the centre of the debate over whether or not to increase the authority of the United Nations system to intervene in the internal affairs of countries where human rights are being violated.

Other agenda items will commemorate the International Year of the Indigenous People (see below), and address contemporary challenges in the human rights field. The latter point will include consideration of ways to strengthen women's rights (see below) and the rights of various vulnerable groups (such as children, especially girls; street children; refugees and displaced persons; migrant workers and their families; racial, national, ethnic and linguistic minorities; the elderly; those with disabilities; and people with acquired immune deficiency syndrome).

Proposals before the World Conference include giving consideration to the creation of a United Nations Permanent Commissioner for Human Rights and an International Court for Human Rights. Secretary-General Boutros-Ghali, in his 1992 *Report on the Work of the Organization*, suggested exploring "ways of empowering the Secretary-General and expert human rights bodies to bring massive violations of human rights to the attention of the Security Council together with recommendations for action".

Non-governmental organizations are expected to provide significant input to the deliberations and the resulting final plan of action. In light of NGOs' very productive involvement in the 1992 United Nations Conference on Environment and Development (the "Earth Summit"), it was agreed—after some debate—that NGOs recognized by the United Nations and regional NGOs with expertise in human rights and/or development which took part in the regional preparatory meetings will have observer status at the World Conference.

There have been three conference Preparatory Committee meetings in Geneva to work out details (9-13 September 1991, 30 March-10 April 1992 and 14-18 September 1992); a fourth is to be held from 19 to 30 April 1993.

The Centre for Human Rights is preparing several action-oriented studies that will serve as the guidelines for the fourth preparatory session and the Conference itself.

To prepare their positions for the World Conference, African countries held a regional meeting in Tunis from 2 to 6 November 1992. A regional meeting for Latin America and the Caribbean took place in San José, Costa Rica, from 18 to 22 January 1993. An Asian regional meeting is scheduled in Bangkok from 29 March to 2 April. The nations of Europe and North America will meet informally.

The Tunis Declaration adopted at the African meeting emphasizes that "The principle of the indivisibility of human rights is sacrosanct. Civil and political rights cannot be dissociated from economic, social and cultural rights. None of these rights take precedence over the others.... The right to development is inalienable. Human rights, development and international peace are interdependent."

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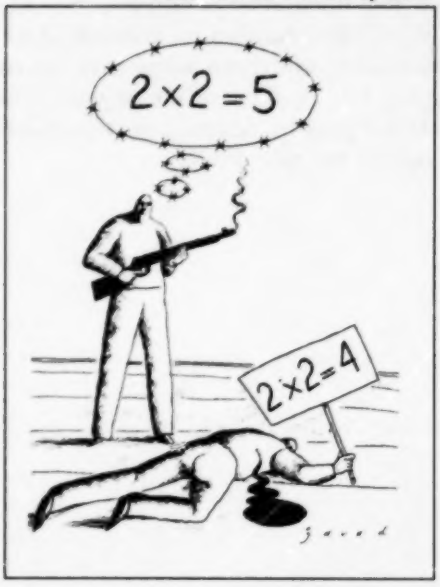



The African countries cited as particular threats to human rights in their region "internal tensions deriving from the failure to meet the basic needs of populations" and "racism, particularly its new forms, extremism and fanaticism, whether of religious or other origin". And they voiced concern that "the dumping of toxic wastes in Africa constitutes a violation of the collective human rights".

In their San José Declaration, the Latin American and Caribbean Governments, among other things, condemned terrorism and drug trafficking, pledged to respect indigenous peoples' political initiatives and cultural diversity and, while praising the human rights achievements of the United Nations Observer Mission in El Salvador (ONUSAL), emphasized the principle of national sovereignty.

Both declarations pointed out the negative impact that foreign debt and unfavourable trade conditions have on the ability of countries to advance human rights, and emphasized the need for international support to strengthen national institutions of justice.

"One of the most substantial contributions the World Conference could make to the cause of human rights", the San José declaration concludes, "would be the establishment of a United Nations programme of technical and financial assistance, under the auspices of the Centre for Human Rights, to cooperate, at the request of Governments, with national projects designed to strengthen the institutions that uphold the rule of law."

## Protecting Human Rights: The United Nations Mechanisms

The World Conference on Human Rights is going to review the body of human rights legal instruments and institutional mechanisms adopted by the United Nations to define our rights and protect people from violations of their rights.

On one hand, the United Nations can point to an active and often effective system of promotion and protection of rights.

In 1990, for example, United Nations human rights monitors sent some 1,100 urgent-action cables to Governments on behalf of individuals alleged to be facing torture, arbitrary detention or summary or arbitrary execution. At the same time, United Nations experts were assisting a record number of Governments in promoting human rights through new national constitutions, democratic elections and stronger institutions of justice.

But the upcoming review will inevitably highlight the system's shortcomings as well. It is woefully underfunded and understaffed. The main conventions remain unratified by scores of Member States. There is also growing concern that the existing system does not possess the necessary authority to ensure compliance or to punish violators of human rights. Thus, the review may lead to concrete recommendations for strengthening the instruments and mechanisms protecting human rights.

Bodies set up under international treaties are involved in an ever-expanding range of human rights activities—monitoring compliance with conventions that ban racial discrimination and abuse of prisoners, establishing dialogues with Governments accused of violations, and providing advice and technical assistance to national human rights efforts.

The central international body promoting human rights is the Commission on Human Rights, established under the United Nations Economic and Social Council

(ECOSOC) in 1946. Its secretariat, the Geneva-based Centre for Human Rights, is the secretariat for the World Conference.

The Universal Declaration of Human Rights, drafted by the Commission and adopted by the United Nations General Assembly in 1948, spelt out the basic rights to which all human beings are entitled, such as the right to life, liberty and personal security; the right to seek asylum from persecution; the right to vote and participate in government; and the right to an adequate living standard.

Plantu, Le Monde/Cartoonists & Writers Syndicate

These provisions, and some additional ones, have since been incorporated in the International Covenant on Civil and Political Rights (which took effect in 1976 and has been ratified to date by 115 States parties), the International Covenant on Economic, Social and Cultural Rights (1976, 118 States parties) and several other multilateral agreements which are legally binding on Governments that have ratified them.

Under each treaty there is a committee of independent experts who monitor compliance, examine complaints of violations and engage in dialogue with Governments.

For example, an 18-member Human Rights Committee reviews Governments' reports on efforts to observe the International Covenant on Civil and Political Rights, as well as their complaints against other States parties for non-compliance.

The Committee also considers complaints from individual citizens of States (67 so far) that are parties to the Covenant's First Optional Protocol; these have included cases of ill treatment in detention, unfair trial, and discrimination of various kinds. (A Second Optional Protocol that seeks to abolish capital punishment has 12 States parties.)

Other key agreements whose implementation is overseen by expert bodies include:

- The International Covenant on Economic, Social and Cultural Rights, monitored by the 18-member Committee on Economic, Social and Cultural Rights;
- The Convention on the Elimination of All Forms of Racial Discrimination (entered into force in 1969, 133 States parties), which prohibits discrimination and dissemination of ideas based on racial superiority or hatred. The monitoring body is the 18-member Committee on the Elimination of Racial Discrimination;
- The International Convention on the Suppression and Punishment of the Crime of Apartheid (1976, 95 States parties), monitored by the Group of Three;
- The Convention on the Elimination of All Forms of Discrimination Against Women (1981, 119 States parties), which addresses discrimination in public life, education, employment, health, marriage and the family. The monitoring body is the 23-member Committee on the Elimination of Discrimination against Women;

• The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987, 71 States parties), which holds States parties responsible for preventing torture and punishing torturers, even those who acted under orders. Monitoring body: the 10-member Committee against Torture;
• The Convention on the Rights of the Child (1990, 126 States parties), which defines primary health care and education, among others, as rights of all children. Monitoring body: the 10-member Committee on the Rights of the Child.

Cummings/Cartoonists & Writers Syndicate

United Nations officials have proposed that the World Conference endorse the goal of universal ratification by the year 2000 of the two International Covenants and the major human rights conventions.

## Rapporteurs and Working Groups

One of the most important mechanisms to enforce compliance with human rights instruments is the so-called 1503 Procedure (named for the ECOSOC resolution that established it). Under this procedure, United Nations experts may examine allegations that "a pattern of gross violations of human rights" exists in a particular country.

If a pattern of violations is established, further United Nations action may ensue. For instance, the Commission on Human Rights may request a thorough study of the situation, with a report and recommendations to ECOSOC; or it may appoint a committee to make an investigation. By 1993, the Commission had considered the situation in some 50 countries under the 1503 Procedure.

Koch, Suddeutsche Zeitung/Cartoonists & Writers Syndicate

The Commission also appoints thematic rapporteurs or working groups to address global issues. Current themes include summary or arbitrary executions, torture, enforced disappearances, arbitrary detention, the sale of children and other child abuses, religious intolerance and the negative impact of mercenaries on the right of self-determination.

The first such body, established in 1980, was the Working Group on Enforced or Involuntary Disappearances. It has examined 35,000 cases of disappeared persons in 55 countries, made queries to Governments and informed relatives of any replies received.

The recently established Working Group on Arbitrary Detention is the first mandated to investigate cases, rather than simply to examine them. It employs an "adversary approach", considering information provided by both States and complainants.

Each year, the rapporteurs and working groups submit reports to the Commission on Human Rights and the General Assembly. Information is gathered from Governments, human rights organizations, witnesses, victims and relatives. In 1991, rapporteurs carried out fact-finding missions in 27 countries; these included visits to prisons and private talks with prisoners.

The Commission also appoints rapporteurs and working groups to look into the human rights situation in a specific country. At present, there are rapporteurs on Afghanistan, Cuba, Equatorial Guinea, Haiti, Iran, Iraq, Myanmar, Romania and the former Yugoslavia. Southern African and Israeli practices in the occupied territories are also under scrutiny.

Rapporteurs and working groups respond to reports of disappearance, torture, arbitrary detention and summary or arbitrary execution by sending Governments "urgent-action" cables, appealing on humanitarian grounds for protection of the individuals involved. For instance, intervention by the rapporteur on summary and arbitrary executions has often resulted in commutation of death sentences or new trials for persons sentenced to death after trials that did not meet human rights standards. In 1992, that rapporteur sent urgent appeals concerning more than 1,500 persons to 42 countries.

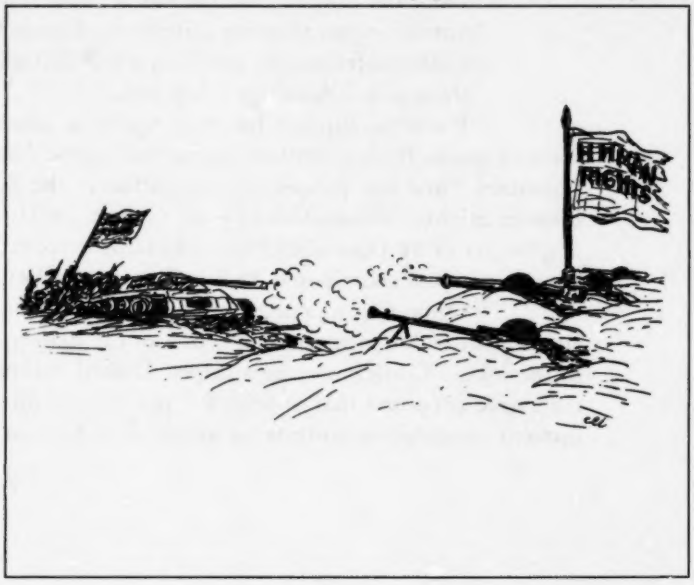
The United Nations Secretary-General and the Under-Secretary-General for Human Rights employ quiet diplomacy on behalf of political prisoners or those facing execution. These "good offices" appeals, usually confidential, are often successful.

## Human Rights Technical Assistance

To aid countries in the promotion of human rights, the United Nations offer six kinds of technical assistance:

• Help in reforming national laws. In 1990, for example, the Centre for Human Rights organized a seminar in constitutional law for Romanian parliamentarians involved in drafting that country's new constitution. Similar assistance has been provided recently to Bulgaria and Mongolia;
• Advice on electoral procedures. In 1992, United Nations experts assisted six countries in Eastern Europe, Africa and Asia in the legal and technical aspects of upcoming elections;

Sysoyev/Cartoonists & Writers Syndicate




• Assistance in the ratification of human rights treaties and preparation of the requisite national reports. This has included both country visits by human rights experts and regional and subregional training courses;
• Support for democratization. Since the 1989 upheaval in Eastern and Central Europe, the Centre has been active in helping countries of the region

hold elections, set up national human rights institutions and draft laws in line with human rights conventions. It has been similarly involved in Paraguay since the change of Government there in 1989;

- Strengthening national and regional institutions. Country programmes in Colombia, Guatemala, Uruguay and Poland have built human rights infrastructures and trained judges, police officers and military officers;
- Training in the administration of justice. Since 1988, the United Nations has organized about 30 human rights training courses worldwide for some 2,500 professionals, granting some 200 scholarships and fellowships every year.

Financial support for these technical advisory services comes from contributions to the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, administered by the Centre for Human Rights. As of 31 December 1992, 25 countries and four organizations had contributed $5.6 million to the Fund.

Obtaining increased funding commitments to assist human rights programmes is one of the principal goals of the World Conference; as a target, United Nations officials have proposed that at least 0.5 per cent of total development cooperation budgets be allocated to human rights.

## The Right to Development: A North-South Divide?

A basic difference in outlook may set the tone for an active debate at the upcoming World Conference on Human Rights over how much emphasis to place on the "right to development". The growing economic divide between North and South may well be reflected in the Conference, as many developing and industrial countries define their human rights concerns in different terms.

Political and civil rights cannot be separated from or given priority over economic, social and cultural rights, many developing-country Governments contend. Increasingly, they have asserted that development is an essential human right, and objected to what many see as the industrial countries' narrow view of human rights as solely involving political and civil liberties.

Indeed, in the view of various developing-country Governments, economic development and adequate living standards are preconditions of expanded political and civil rights. Further, some argue, the "collective rights" of a people may take precedence over certain rights of individuals.

Governments of various industrial countries, on the other hand, contend that certain individual freedoms must exist for successful development to take place. Some have pressed developing countries to open their political processes and to better protect their citizens' civil rights.

Partially reflecting both points of view, United Nations Secretary-General Boutros Boutros-Ghali recently declared that "development provides the foundation for human rights advances and ... equally, human rights is the key which unlocks the creative energies of people so central to economic progress".

The United Nations has acknowledged development as a right, implicitly or explicitly, practically from its inception. The Universal Declaration of Human Rights, adopted in 1948, recognized the right to work, to education and to an adequate standard of living.

The 1966 International Covenant on Economic, Social and Cultural Rights made this commitment more explicit, obligating States that are parties to the treaty to "recognize the right of everyone to an adequate standard of living ... including adequate food, clothing and housing, and to the continuous improvement of living conditions". The Covenant stressed "the essential importance of international cooperation" in realizing this right.

The United Nations General Assembly's 1969 Declaration on Social Progress and Development stated that "all peoples and all human beings ... shall have the right ... to enjoy the fruits of social progress and should, on their part, contribute to it".

And in 1986, the General Assembly adopted the Declaration on the Right to Development, which it described as "an inalienable human right by virtue of which each person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized".

All of these rights, the Declaration added, are "indivisible and interdependent".

According to the Declaration, States have the primary responsibility for creating the national and international conditions that will allow the right to development to be realized.

Continuing this emphasis, Item 10 of the agenda of the World Conference on Human Rights will be "Consideration of the relationship between development, democracy and the universal enjoyment of all human rights, keeping in view the interrelationship and indivisibility of economic, social, cultural, civil and political rights".

Declarations adopted at regional preparatory meetings for the World Conference, held in Tunis from 2 to 6 November 1992, and in San José, Costa Rica, from 18 to 22 January 1993, have similarly underscored the link between human rights and development.

In the Tunis Declaration, representatives of the African States affirmed, "Political freedom when not accom-

panied by respect for economic, social and cultural rights is precarious."

"Lasting progress towards the implementation of human rights", continued the Declaration, "implies, at the national level, effective development policies and, at the international level, more equitable economic relations, as well as a favourable economic environment."

In part, this emphasis reflects the view in many developing countries that up to now world attention to human rights violations has focused almost exclusively on such concerns as torture, executions, imprisonment without fair trial, or enforced disappearances.

During the 1992 session of the General Assembly's Third Committee (Social, Humanitarian and Cultural), several Asian, African and Latin American delegates articulated the view that consideration of human rights should give priority to development issues.

"If there is genuine concern about the human rights situation in developing countries", said Li Daoyu of China, "the primary need is to remove obstacles to development, lessen external trade, provide those countries with unconditional assistance, and create a better economic environment for their survival."

Said Luis Fernando Jaramillo of Colombia: "The right to development is the pillar for economic and social rights, which must help preserve civil and political rights. The right to development is an inalienable right, yet industrialized countries fail to recognize it."

In contrast, at last year's Earth Summit, the United States qualified its support for the Rio Declaration on Environment and Development by reiterating its position that "development is not a right. On the contrary, it is a goal that we all hold, which depends for its realization in large part on the promotion and protection of the human rights set out in the Universal Declaration of Human Rights."

In the same vein, British delegate Henry Steel told the 1992 Commission on Human Rights that unless human rights were protected by an open and fair legal

system, ordinary citizens would not be motivated to play a full part in the development process.

In practical terms, this dispute is manifested in conflicts over international development assistance, with developing-country Governments objecting to human rights conditions that are increasingly being set by donor Governments. Outside pressure to hold elections or free prisoners, for example, is regarded as infringing on national sovereignty. Such conditionality is also viewed as selective and discriminatory.

According to the San José Declaration, "[W]hen democratic Governments are making determined efforts to resolve their human rights problems, such problems should not be used for political ends or as a condition for extending assistance or socio-economic cooperation."

Bazgrov/Cartoonists & Writers Syndicate

The Tunis Declaration cautioned that "no ready-made model" of human rights "can be prescribed at the universal level since the historical and cultural realities of each nation and the tradition, standards and values of each people cannot be disregarded".

Many developing countries feel the industrial countries are obligated to provide assistance and to redress the international economic unbalances—such as heavy foreign debt burdens and record-low prices for the commodities developing countries export.

Thus, among the "obstacles to the observance of human rights" identified in the San José regional meeting were "international coercive measures that affect human rights" and "poor socio-economic conditions resulting partly from the transfer of resources to the servicing of foreign debt and from the disparity in the terms of international trade".

The San José Declaration also cited the "shortage of resources for the institutionalization and administration of justice". The Tunis meeting likewise noted that "the proper administration of justice and an independent judiciary are ... impossible without substantial investment".

Despite the different priorities of developing and industrial countries on the issue of development and human rights, there is a broad consensus that "without democracy a people's potential for socio-economic progress cannot flower", as Bangladesh's Foreign Minister Mostafizur Rahman told the General Assembly in 1991. But there is also a widespread concern, as Rahman also noted, that "without improved standards of living and a vision of the future that can sustain hope, democracy will wither".

## Indigenous Peoples Pressing for Greater Rights

Brutally forced off their ancestral lands in many instances, faced with discrimination and poverty, and often afforded little say in their political futures, indigenous peoples worldwide are increasingly seeking to exercise their full range of human rights.

As the world community grapples with how best to reconcile their demands for self-determination with the sovereignty of nation States, there is growing recognition of the need for new international standards to safeguard indigenous peoples' ways of life and cultures.

It is no surprise, therefore, that indigenous people have a place on the agenda of the World Conference on Human Rights this June, spurred in part by the decision by the United Nations General Assembly to proclaim 1993 the International Year of the World's Indigenous People.

"The way indigenous people are treated by States and the international community will be a major test of the seriousness of our commitment to a genuinely universal human rights regime", United Nations Secretary-General Boutros Boutros-Ghali noted at the ceremony to open the International Year. "If we are serious about development, political participation and human rights, we must address the special situation of indigenous people."

To further these goals, Secretary-General Boutros-Ghali named Rigoberta Menchú Goodwill Ambassador for the Year. Ms. Menchú, a Quiché activist from Guatemala, was awarded the 1992 Nobel Peace Prize.

An estimated 300 million persons in 70 countries from Australia to the Arctic are considered to be indigenous peoples. More than half live in China and India, some 10 million in Myanmar, and 30 million in South America. While the situations and histories of these peoples vary considerably, common problems include the loss or degradation of native lands due to colonization or development, and the threat of involuntary assimilation into the dominant cultures that surround them.

Historically, some indigenous peoples were victims of genocide, for example in Central and South America, where European colonization reduced the indigenous population from around 80 million in 1500 to some 3.5 million by 1650. Many other groups have been subjected to slavery and servitude, and forced by conquering societies to give up their native languages and traditions along with their natural resources.

Their descendants have continued to face bias, political and economic marginalization and alienation. Most of India's tribal peoples live below the poverty line. The life expectancy of the indigenous people in northern Russia is 18 years less than the national average. Unemployment among Australian Aboriginals is five times the national average.

Despite such hardship, indigenous peoples have battled to keep control of their cultural identities and lands, and to maintain their unique closeness to the natural environment. But as economic and population growth have transformed the landscape, the indigenous have frequently been the most directly affected by deforestation, mining, construction of hydro-electric projects and toxic and nuclear waste disposal.

Until recently, international action to protect the human rights of indigenous peoples has been limited. In 1953, the International Labour Organization (ILO) completed a study that led to the adoption in 1957 of ILO Convention No. 107 on the rights of indigenous and tribal peoples. This was not effective, however, and in 1969 the ILO adopted Convention No. 169 to promote consultation between Governments and indigenous people. This addressed, among other things, collective and individual land rights and ownership of natural resources in indigenous people's traditional habitats.

Two years later, the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities initiated an influential study of discrimination against indigenous peoples. This led, in 1982, to the creation of the United Nations Working Group on Indigenous Populations, intended to review the policies of Governments and

to draw up a Universal Declaration on the Rights of Indigenous Peoples.

The Working Group has considered ways to protect indigenous peoples' ownership and control of cultural and religious property, and studied the usefulness of treaties and other bilateral arrangements between Governments and indigenous peoples. The group meets annually; representatives of many indigenous peoples' organizations attend as observers.

The Working Group has laboured to define self-determination (including autonomy and self-government) and collective rights to territories in a manner acceptable to Governments. The issues involved are politically sensitive, and progress has been slow. But at the 1992 annual meeting of the Working Group, Chairperson-Rapporteur Erica-Irene Daes said she was hopeful that a declaration on the rights of indigenous peoples "would become a standard to which both Governments and indigenous peoples could aspire".

The draft of the Universal Declaration as it now stands proclaims that indigenous peoples have the right to be protected from genocide, to maintain and develop their distinct ethnic and cultural identities, to use their own languages, to own and control their traditional lands and territories, to be compensated for lands that were confiscated, to be consulted on development projects that will affect them, to exercise autonomy in internal and local affairs and "to participate on an equal footing with all other citizens and without adverse discrimination in the political, economic, social and cultural life of the State". The drafting of the Universal Declaration should be completed this year.

Although it remains unclear exactly how the various issues surrounding indigenous peoples' rights will be raised at the World Conference, there is no doubt that they are a concern for many countries and high on the NGO agenda as well. Other activities planned for the International Year of the Indigenous People include a Maori Spiritual Elders' Conference and a Maori Women's Conference, in New Zealand; an Indigenous Programme of the International Congress on Circumpolar Health, in Iceland; the

Second International Indigenous Youth Conference, in Australia; and a Conference of the Pacific Asia Council of Indigenous People, in India.

## Women's Rights: The Call for Full Citizenship

*"The specific experience of women must be added to traditional approaches to human rights . . . to transform the concept and practice of human rights in our culture so that it takes better account of women's lives."*

Charlotte Bunch, Director,
Center for Women's Global Leadership,
Rutgers University, United States.

Dr. Bunch's words reflect a widespread concern. A growing international movement is under way to reaffirm that women's rights *are* indeed human rights. The point is being stressed by human rights organizations, human rights experts, women's organizations and the United Nations.

Many human rights advocates are calling for a revision of human rights law and practice to include all women's human rights concerns. A central request is the full inclusion of certain issues in the human rights agenda, starting with violence against women.

The current debate also focuses on the equal rights of women and the need to eliminate discrimination against them, in law as well as in practice. Other questions include discrimination against the girl child and traditional practices harmful to women, such as sexual mutilation and "dowry deaths".

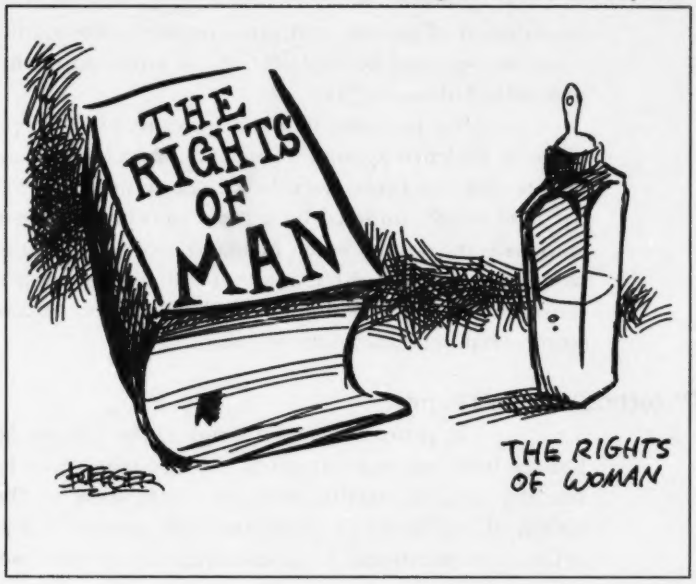
The World Conference on Human Rights, which the United Nations is convening at Vienna in June 1993, is seen by women's rights advocates as a major opportunity to include women's rights in the mainstream human rights agenda. Suggestions to that effect have been made by many United Nations bodies, non-governmental organizations (NGOs) and academic experts.

The United Nations Commission on the Status of Women has recommended that women's rights become an integral part of the Conference agenda. The United Nations Economic and Social Council has suggested that the Conference deal with discrimination against women, which impedes

the enjoyment of their economic, social and cultural rights, as well as of their civil and political rights. A similar appeal has been made by the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities.

For its part, the United Nations Committee on the Elimination of Discrimination against Women has recommended that the World Conference emphasize that women's equality is a significant human rights issue, and examine the effectiveness of human rights treaties in promoting equality.

Boerger/Cartoonists & Writers Syndicate




## Gender Perspective

International human rights treaties and declarations do of course cover women, as they cover all human beings. But women's rights advocates believe there are certain human rights issues that need to be considered from a gender perspective.

"Of course, women sometimes suffer abuses such as political repression that are similar to abuses suffered by men", states Charlotte Bunch. "However, many violations of women's human rights are distinctly connected to being female—that is, women are discriminated against and abused on the basis of gender."

One such gender-related issue is the protection of refugee women. At least 75 per cent of the world's 18 million refugees are women and children. Refugee women are too often victims of rape and other physical and sexual abuses, and have special need of human rights protection.

Another issue is trafficking in women. It includes prostitution of women and girls, usually accompanied by coercion, violence or exploitation, in violation of their fundamental human rights.

But perhaps the most widespread gender-related abuse is violence against women. One problem is that much of this violence takes place in private, especially in the family. It is mostly inflicted by a male who has a close relationship with the woman—the husband, boyfriend, father or brother. This secrecy has made it difficult to grasp the dimensions of the phenomenon; thus, violence against women has remained for too long unseen.

## Protecting Women's Rights

To promote women's rights, the United Nations has set international standards and brought about legally binding treaties, starting with the Convention on the Elimination of All Forms of Discrimination against Women—the primary international legal instrument to protect women's human rights.

Constitutional, legislative and other measures described in the Convention seek to promote equality through affirmative action, maternity protection, equal employment opportunities and equality before the law. In addition to the articles on civil and political rights, the Convention includes articles on the economic, social and cultural aspects of a woman's life.

Today 119 countries have ratified the Convention: they are thus legally bound to put into practice its provisions, and to submit reports on what they have done to improve the status of women to the United Nations Committee on the Elimination of Discrimination against Women.

The 23-member expert Committee is the body charged with monitoring implementation of the Convention. It examines periodic reports by States parties, makes suggestions and recommendations to States on improving the status of women and reports annually to the United Nations General Assembly.

Says Kay Fraleigh, representative of the NGO International Alliance of Women at the United Nations: "The Committee seeks to keep the States parties 'on their toes', and to challenge them to take the measures necessary to ensure that the spirit of the Convention is upheld; to ensure that women's legal rights move from *de jure* to de facto; and to ensure that women are included in the decision-making which affects their lives."

The Committee, for instance, questions States parties on women's participation in government and parliament, the percentages of girls at all levels of education, protection of maternity, equal conditions of employment, family law and the condition of women migrant workers.

Various suggestions have been made to strengthen this monitoring system. The Committee could, for instance, be empowered to receive complaints from individuals and groups about States' violations of the Convention, as is the case under some other United Nations human rights treaties.

Several other United Nations instruments seek to protect women's rights. Among them are the Convention on the Political Rights of Women, the Convention against Discrimination in Education, the Convention on the Nationality of Married Women and the Equal Remuneration Convention of the International Labour Organisation.

## Combating Violence against Women

The latest international instrument in the making is a United Nations Declaration on Violence Against Women,

now at the end of the drafting stage. The Declaration is being drafted by an expert group, on the recommendation of the Commission on the Status of Women. In the draft Declaration, such violence is defined as "any act, omission, controlling behaviour or threat, in any sphere, that results in, or is likely to result in, physical, sexual or psychological injury to women".

The Declaration calls on States to seek to prevent, investigate and punish acts of violence against women, whether perpetrated by individuals or by the State and its agents. States are called on to ensure that women subjected to violence and their children receive specialized assistance, such as rehabilitation and aid in child care.

The draft Declaration has been submitted to the Commission on the Status of Women for approval at its March 1993 session, and will be considered by the forty-eighth session of the General Assembly, convening in September 1993. The Declaration represents a breakthrough: it is the first universal legal instrument seeking to combat violence against women and putting that abuse on the map of international human rights legislation.

## Changing Trends

But what is needed most is an overall shift in perception, many human rights experts argue. "Human rights are still considered to be more important than women's rights", Dr. Bunch states. "The distinction perpetuates the idea that the rights of women are of a lesser order than the 'rights of man'."

"In the United Nations," she adds, "the Human Rights Commission has more power to hear and investigate cases than the Commission on the Status of Women, more staff and budget, and better mechanisms for implementing its findings. Thus it makes a difference in what can be done if a case is deemed a violation of women's rights and not of human rights."

Another problem is that women's rights are too often perceived as a social rather than human rights question, argues Elsa Stamatopoulou-Robbins, Chief of the

New York Office of the United Nations Centre for Human Rights, who complains about "the relative political marginalization of the issue".

"Treating women under the 'softer' social issues rather than the politically 'heavier' human rights issues has weakened the cause", she says. "Women's issues are ... social issues but also human rights issues, and should be treated in both of these areas of the United Nations."

"Part of the problem", she adds, "is that traditional human rights NGOs have only recently had a women's angle, and women NGOs did not participate in the Commission [on Human Rights] and other mainstream human rights bodies. This trend regarding NGOs seems to be in the process of being reversed."

Signs of change are on the rise, as traditional human rights organizations add women's rights to their agendas, new "women's rights watch" organizations are being formed and statistics, studies and legal brief articles are being produced.

Says Kay Fraleigh: "The 1990s have seen a shift in the perception of the relative value of achieving one human right over the others. Human rights issues are so interwoven that no advance can be made in one area without reference to another. And the growth of the understanding of what constitutes human rights has opened the possibilities for a greater acceptance of the concept that women's rights are human rights."

Appendix I

## Provisional Agenda for the World Conference on Human Rights

General Assembly resolution 47/122 of 18 December 1992, Annex

Item 1: Opening of the Conference.

Item 2: Election of the President.

Item 3: Adoption of the rules of procedure.

Item 4: Election of other officers of the Conference.

Item 5: Appointment of the Credentials Committee.

Item 6: Establishment of committees and working groups.

Item 7: Adoption of the agenda.

Item 8: Commemoration of the International Year of the World's Indigenous People.

Item 9: General debate on the progress made in the field of human rights since the adoption of the Universal Declaration of Human Rights and on the identification of obstacles to further progress in this area and ways in which they can be overcome.

Item 10: Consideration of the relationship between development, democracy and the universal enjoyment of all human rights, keeping in view the interrelationship and indivisibility of economic, social, cultural, civil and political rights.

Item 11: Consideration of contemporary trends in and new challenges to the full realization of all human rights of women and men, including those of persons belonging to vulnerable groups.

Item 12: Recommendations for:

a) Strengthening international cooperation in the field of human rights in conformity with the Charter of the United Nations and with international human rights instruments;

b) Ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues;

c) Enhancing the effectiveness of United Nations activities and mechanisms;

d) Securing the necessary financial and other resources for the United Nations activities in the area of human rights.

Item 13: Adoption of the final documents and report of the Conference.

Appendix II

## Tunis Declaration on Human Rights

As part of the preparatory process for the World Conference on Human Rights in June, United Nations Member States were asked by the General Assembly to hold regional meetings to exchange views and highlight human rights concerns specific to the region. Non-governmental organizations, observers, Member States and intergovernmental and United Nations bodies also participated in the discussions. The following "Tunis Declaration", adopted at the Regional Meeting for Africa (Tunis, 2-6 November 1992), represents the collective views of African countries.

The Ministers and representatives of the African States meeting at Tunis from 2 to 6 November 1992, in the context of preparations for the World Conference on Human Rights and pursuant to General Assembly resolution 46/116 of 17 December 1991,

*Considering* the importance of the forthcoming World Conference on Human Rights, which is taking place at a time characterized by major changes on the international scene,

*Considering* the priority that is increasingly being attached to the protection and promotion of human rights among the concerns of the international community,

*Convinced* that the dumping of toxic wastes in Africa constitutes a violation of the collective human rights of the populations of Africa,

*Noting with satisfaction* the advances in standard-setting in the field of human rights and the progress achieved in their implementation throughout the world,

*Recognizing*, however, the existence of difficulties, both endogenous and exogenous, which are delaying or impeding satisfactory implementation of human rights at the universal level,

*Considering* that one of the aims of the World Conference on Human Rights is to identify these difficulties and recommend the measures which must be taken nationally and internationally to overcome them,

*Aware* of the value of the discussions which will take place during the World Conference on Human Rights, and of the

impact of its conclusions on the direction of future activities of the United Nations in this sphere,

*Desiring* to contribute to the success of the World Conference and to ensure that the international community shares African concerns regarding the promotion of human rights and development,

*Adopt* the present declaration, to be known as the Tunis Declaration, which reflects both their convictions and their expectations:

1. The African States reaffirm their commitment to the principles set forth in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

2. The universal nature of human rights is beyond question; their protection and promotion are the duty of all States, regardless of their political, economic or cultural systems.

3. The proper administration of justice and an independent judiciary are crucial to the full realization of human rights. The attainment of these objectives is, however, impossible without substantial investment in the area of the administration of justice. The African States and the international community are, therefore, called upon to allocate more resources to this area.

4. Responsibility for the implementation and promotion of human rights devolves primarily on Governments. The component institutions, organizations and structures of society also play an important role in safeguarding and disseminating these rights; they should therefore be strengthened and encouraged.

5. The observance and promotion of human rights are undeniably a global concern and an objective to the realization of which all States, without exception, are called upon to contribute. However, no ready-made model can be prescribed at the universal level since the historical and cultural realities of each nation and the traditions, standards and values of each people cannot be disregarded.

6. The principle of the indivisibility of human rights is sacrosanct. Civil and political rights cannot be dissociated from economic, social and cultural rights. None of these rights takes precedence over the others.

7. Political freedom when not accompanied by respect for economic, social and cultural rights is precarious. The right to

development is inalienable. Human rights, development and international peace are interdependent.

8. Lasting progress towards the implementation of human rights implies, at the national level, effective development policies and, at the international level, more equitable economic relations, as well as a favourable economic environment.

9. Racism, particularly its new forms, extremism and fanaticism, whether of religious or other origin, poses a serious threat to the protection and promotion of universal human rights values. Governments, individuals, groups, institutions and non-governmental organizations are called upon to apply their efforts, take the necessary steps and cooperate in dealing with this threat.

10. Africa, which has chosen the path of democracy, economic reform and the promotion of human rights, in an unfavourable international economic environment, and which finds itself particularly exposed to internal tensions deriving from the failure to meet the basic needs of populations and from the rise of extremism, will nevertheless remain committed to its choices and its responsibilities, and calls upon the international community to do likewise, in particular through an intensification of international solidarity, an adequate increase in development assistance and an appropriate settlement of the debt problem.

11. Africa, which remains committed to respect for individual human rights, also takes this opportunity to reaffirm the importance that it attaches to respect for the collective rights of peoples, particularly the right to determine their own future and to control their own resources. Accordingly, it condemns the persistence of apartheid in South Africa and the gross and systematic violations of human rights due to foreign occupation, particularly in Palestine and in the other occupied Arab territories, including Jerusalem, the armed conflicts in Somalia and the policy of ethnic cleansing in Bosnia and Herzegovina, and reaffirms the right of all peoples to self-determination and free choice of their political and economic systems and institutions, on the basis of respect for national sovereignty and non-interference in the internal affairs of States.

Appendix III

## San José Declaration on Human Rights

As part of the preparatory process for the World Conference on Human Rights in June, United Nations Member States were asked by the General Assembly to hold regional meetings to exchange views and highlight human rights concerns specific to the region. Non-governmental organizations, observers, Member States and intergovernmental and United Nations bodies also participated in the discussions. The following "San José Declaration", adopted at the Regional Meeting for Latin America and the Caribbean (San José, Costa Rica, 18-22 January 1993), represents the position of the countries from Latin America and the Caribbean.

The representatives of the Latin American and Caribbean countries, meeting in the city of San José, Costa Rica, from 18 to 22 January 1993, as part of the preparations for the World Conference on Human Rights, to be held in June 1993 in Vienna, Austria,

*Considering* that the promotion and protection of human rights is a matter of priority for the international community and that the Conference affords a unique opportunity to carry out a comprehensive analysis of the international human rights system and of the machinery for the protection of human rights, in order to enhance and thus promote a fuller observance of those rights,

*Reaffirming* that our countries represent a broad grouping of nations sharing common roots within a rich cultural heritage based on a combination of various peoples, religions and races, and that our roots unite us in the search for collective solutions to present problems through friendly dialogue, peaceful coexistence and respect for pluralism and the principles of national sovereignty, non-interference in the internal affairs of States and self-determination of peoples,

*Recognizing* that we live in an uncertain world situation full of challenges and opportunities for building an international order of true democracy, freedom and justice, based on strict observance of international law,

*Emphasizing* that the Latin American and Caribbean community regards peace, democracy, development and social welfare as essential for the full realization of human rights,

*Considering* that the World Conference on Human Rights is the appropriate forum for examining the relationship between development and the universal enjoyment of economic, social, cultural, civil and political rights, and recognizing the importance of creating the necessary conditions so that all may enjoy those rights, bearing in mind the Declaration adopted by the United Nations General Assembly in 1986,

*Reaffirming* that it is the obligation of all States to promote and guarantee the full observance of human rights through their own efforts and through international cooperation based on the principles of the Charter of the United Nations, as well as on international and regional human rights instruments,

*Stressing* the importance of strengthening broad, non-selective and non-discriminatory international cooperation, designed to strengthen the capacity of States to respect and promote human rights, based on dialogue, solidarity and joint action to promote the full enjoyment of all human rights and to avoid the use of pressures alien to the essential nature of such rights,

*Bearing in mind* that the guiding principles of the study and implementation of international human rights instruments in the United Nations system should be interdependence, universality, objectivity, impartiality, non-selectivity and the responsibility of States to fulfil their obligations,

*Reaffirming* the unwaivable commitment to the defence and promotion of representative democracy and human rights in the region, within respect for the principles of self-determination and non-intervention,

1. We reaffirm our commitment to promoting and guaranteeing the full observance of the human rights established in the Universal Declaration and in universal and regional human rights instruments, through our own efforts and through broad-based, non-selective and non-discriminatory international cooperation;
2. We reiterate that the World Conference on Human Rights should be based on the unconditional and indissoluble link between human rights, democracy and development;
3. We hold that the interdependence and indivisibility of civil, political, economic, social and cultural rights are the basis for consideration of the question of human rights, and therefore

the exercise of some cannot and must not be disallowed on the pretext that full enjoyment of the others has not yet been achieved;

4. We underline that respect for human rights and fundamental freedoms, the strengthening of development, democracy and pluralism in international relations with full respect for the sovereignty, territorial integrity and political independence of States, and the sovereign equality and self-determination of peoples are the pillars of our regional system;

5. We consider that the defence and strengthening of representative democracy constitute the best guarantee of the effective enjoyment of all human rights, and stress that the rupture of the democratic order threatens human rights in the country concerned and has negative repercussions on the countries of the region, particularly neighbouring countries;

6. We reaffirm our region's support for the Commission on Human Rights as the principal forum within the United Nations system for dealing with human rights questions, in accordance with its mandate;

7. We emphasize that the right to development is an inalienable human right, as established in the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986. The international community must take measures as soon as possible for the realization of this right through appropriate mechanisms which take account of the right to development in a healthy and ecologically balanced environment as a universal right, in accordance with the Rio Declaration;

8. We consider that an evaluation of the United Nations human rights system is needed in order to strengthen its capacity and that of the international community to protect, promote and defend human rights, to provide an effective and timely response to problems arising in this field and to remove obstacles to the full observance of human rights;

9. We recognize that the work done by the United Nations in codifying international legal norms for the promotion and protection of human rights is one of the great achievements of the Organization, and we encourage Governments to adhere fully to the instruments contained therein;

10. We affirm that the obstacles to the observance of human rights which must be eliminated include: lack of democracy and freedom, international coercive measures that affect human rights, lack of education, poor socio-economic

conditions resulting partly from the transfer of resources to the servicing of foreign debt and from the disparity in the terms of international trade, corruption, impunity, a shortage of resources for the institutionalization and administration of justice, various forms of intolerance, widespread violence, terrorism and drug trafficking at all stages, the illegal arms trade, the militarization of societies and the uncontrolled production and supply of arms, the failure to ratify international human rights treaties, the lack of genuinely independent systems of justice and the lack of respect for the resolutions adopted by organs of the United Nations system and the inter-American system pertaining to the enjoyment of these rights;

11. We hold that measures must be taken to prevent the rise in other parts of the world of new trends of systematic, flagrant human rights violations which have arisen in some countries, such as disturbing manifestations of intolerance, all forms of racial discrimination, xenophobia, neo-nazism and ethnic cleansing;

12. We note that when democratic Governments are making determined efforts to resolve their human rights problems, such problems should not be used for political ends or as a condition for extending assistance or socio-economic cooperation;

13. We draw attention to the urgent need to establish mechanisms and programmes for the defence and protection of children and adolescents, in particular, in relation to abandoned and street children, and for Governments to set up national commissions for the monitoring and follow-up of the Convention on the Rights of the Child, made up of governmental and non-governmental organizations; we trust, moreover, that the international concern expressed at the situation of the children in our region will translate into concrete forms of cooperation with the programmes and projects established at the national level;

14. We reaffirm that Governments must emphasize the implementation of actions to recognize the rights of women, to promote their participation in national life with equality of opportunity, to eradicate all forms of hidden or overt discrimination on grounds of sex, race or social status and, especially, to eliminate gender-based violence, as well as all forms of sexual exploitation. We recommend that the World Conference promote the relevant international instruments;

15. We welcome the celebration in 1993 of the International Year of the World's Indigenous People; we recognize the enormous contribution of indigenous peoples to the development

and plurality of our societies and we reaffirm our commitment to their economic, social and cultural well-being and our obligation to respect their own initiatives and participation, recognizing the value and diversity of their cultures and their forms of social organization, without detriment to the unity of the State;

16. We attach the utmost importance to the observance of the human rights and fundamental freedoms of vulnerable groups and the elimination of all forms of discrimination against them, and to the development of norms which protect those groups not yet covered by relevant instruments;

17. We attach the greatest importance to consideration of the topic of disability and human rights, and affirm that, in order to ensure compliance with existing norms of protection, there is a need to elaborate an international convention that will provide, on the basis of equality, for the full exercise and enjoyment of the fundamental rights of disabled persons, in order to incorporate them fully into the active life of the community, and to intensify efforts to prevent disability;

18. We consider that efforts must be intensified to improve the situation of migrant workers and their families according to the principle of non-discrimination, and we encourage Governments to adhere to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

19. We express our commitment to promote and protect all of the human rights and fundamental freedoms of elderly persons, as established in national and international instruments, and to guarantee the full access of this vulnerable group to social security benefits and to the specific protection mechanisms recommended in the Vienna International Plan of Action on Ageing;

20. We recognize the need to respect the principle of non-discrimination and to guarantee the legal and social equality of people infected with human immunodeficiency virus (HIV) and people with acquired immunodeficiency syndrome (AIDS), as well as their right to receive the necessary treatment, and the need to take public health measures to prevent the proliferation of this illness;

21. We reiterate our concern about, and our condemnation of, the various forms of terrorism, including the activities of armed groups that sow terror in the population and of drug traffickers, who threaten the exercise of democracy and are serious obstacles to the full realization of all human rights and fundamental freedoms in our region;

22. We believe that the inter-American system of human rights plays a fundamental role in promoting, protecting and defending human rights in our region, and we encourage the efforts under way to strengthen this system and to increase its effectiveness. We stress the importance of coordination and cooperation between the United Nations and the inter-American system of human rights;

23. We recognize the importance of the work which, at the express request of the Government of El Salvador, the United Nations Observer Mission in El Salvador (ONUSAL) has carried out for the protection and promotion of human rights, which has yielded highly positive results in this area, thus contributing to the consolidation of peace in El Salvador;

24. We consider that a process of reflection is required on the consequences of interference on humanitarian grounds for the principles of the self-determination of peoples and respect for the sovereignty of States, on the one hand, and respect for human rights, on the other, which form the basis of the inter-American system;

25. We propose that the World Conference consider the possibility of asking the General Assembly to study the feasibility of establishing a United Nations Permanent Commissioner for Human Rights;

26. We recognize that regular meetings should be convened, bringing together leaders of the United Nations, the Organization of American States, other regional organizations, the World Bank, the International Monetary Fund, the Inter-American Development Bank and other important international finance and development institutions in order to assess the impact of their policies on human rights and to coordinate measures and strategies for the promotion and realization of human rights;

27. We stress that, as the free market system cannot in and of itself guarantee or promote the enjoyment of human rights, States should accept the obligation of establishing and maintaining adequate measures for protecting the vulnerable sectors of their population;

28. We attach great importance to international technical and financial cooperation, and to other types of advisory services that the United Nations can provide to Member States, for the improvement of the administration of justice, police and prison systems, the promotion and teaching of human rights and all efforts that might help strengthen the institutions which uphold the rule of law. In this regard, we consider that one of the most

substantial contributions the World Conference could make to the cause of human rights would be the establishment of a United Nations programme of technical and financial assistance, under the auspices of the Centre for Human Rights, to cooperate, at the request of governments, with national projects designed to strengthen the institutions that uphold the rule of law, as recommended in Commission on Human Rights resolution 1992/51;

29. We stress that the promotion and defence of human rights must be given priority within the United Nations, and that this must be reflected in the distribution of the Organization's budgetary resources;

30. We stress the importance of strengthening the Centre for Human Rights by providing it with the necessary resources so that it may expeditiously and effectively provide a wide range of human rights advisory services, taking into account the current historical, political and social situation of requesting Governments;

31. We affirm the importance of incorporating the topic of human rights issues into the education imparted by States, and recommend that its dissemination, both theoretical and practical, be established as a priority objective of educational policies.

Appendix IV

## Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

*The 1992 regular session of the General Assembly unanimously adopted two new human rights instruments, designed to help protect minorities and curb enforced disappearances. These two instruments, as well as their background, are presented below, starting with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.*

Submitting in 1977 his final report on minority rights, Francesco Capotorti, special rapporteur of the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities, proposed drafting an international declaration on the rights of minorities.

The Subcommission in August 1977 recommended that the United Nations Commission on Human Rights consider drafting such a declaration, within the framework of Article 27 of the International Covenant on Civil and Political Rights, adopted in 1966 by the United Nations General Assembly. That article recites, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

The Commission took up the idea, and set up in 1978 an informal working group, open to all Commission members, to work on a draft declaration presented by Yugoslavia.

The working group, reconstituted annually by the Commission, submitted the final draft of the declaration to the 1992 session of the Commission. In the final phase of drafting, the Chairman/Rapporteur of the working group was Ms. Zagorka Ilíc, of Yugoslavia.

The draft declaration was approved by the Commission on Human Rights on 21 February 1992, and unanimously adopted by the General Assembly on 18 December 1992.

The text of the Declaration is reproduced below.

## Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

General Assembly resolution 47/135 of 18 December 1992, Annex

*The General Assembly,*

*Reaffirming* that one of the basic aims of the United Nations, as proclaimed in its Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

*Reaffirming* faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

*Desiring* to promote the realization of the principles contained in the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

*Inspired* by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

*Considering* that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

*Considering* that the United Nations has an important role to play regarding the protection of minorities,

*Bearing in mind* the work done so far within the United Nations system, in particular the Commission on Human Rights, the Subcommission on Prevention of Discrimination and

Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments on promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

*Taking into account* the important work which is carried out by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

*Recognizing* the need to ensure even more effective implementation of international instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

*Proclaims* this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

**Article 1**

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity.

2. States shall adopt appropriate legislative and other measures to achieve those ends.

**Article 2**

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

4. Persons belonging to minorities have the right to establish and maintain their own associations.

5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

**Article 3**

1. Persons belonging to minorities may exercise their rights, including those set forth in this Declaration, individually as well as in community with other members of their group, without any discrimination.

2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in this Declaration.

**Article 4**

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

**Article 5**

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

**Article 6**

States should cooperate on questions relating to persons belonging to minorities, including exchange of information and experiences, in order to promote mutual understanding and confidence.

**Article 7**

States should cooperate in order to promote respect for the rights set forth in this Declaration.

**Article 8**

1. Nothing in this Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.
2. The exercise of the rights set forth in this Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.
3. Measures taken by States to ensure the effective enjoyment of the rights set forth in this Declaration shall not *prima facie* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
4. Nothing in this Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

**Article 9**

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in this Declaration, within their respective fields of competence.

Appendix V

## Declaration on the Protection of All Persons from Enforced Disappearance

In 1984, the main United Nations instrument to curb enforced disappearances—the Working Group on Enforced or Involuntary Disappearances—recommended that the United Nations Commission on Human Rights elaborate an international instrument against disappearances.

The Commission in March 1986 endorsed the idea, and invited its Subcommission on Prevention of Discrimination and Protection of Minorities to consider the question of a declaration against unacknowledged detention of persons.

Such a declaration was drafted over a four-year period by an informal working group, whose Chairperson/Rapporteur was Mrs. Beatrice le Fraper du Hellen, of France.

In setting up the working group, the Commission on Human Rights invited all Governments, intergovernmental agencies and non-governmental agencies to participate in its activities. Representatives of several States and observers from various NGOs took active part in the meetings of the working group, submitting comments and suggestions. Among the NGOs were Amnesty International, the International Federation of Human Rights, the International Commission of Jurists, the NGO Coalition against Impunity and the Latin American Federation of Associations of Relatives of Disappeared Detainees.

The Working Group on Enforced or Involuntary Disappearances strongly supported the drafting process. The Group and its five members participated in preparing the draft, and emphasized the urgent need for having it adopted by the Commission and the Assembly.

Presenting the draft to the Commission, the drafting group stated that "the text of the draft declaration is the outcome of a thorough and painstaking discussion. At all stages of this discussion, the participants made every effort

to ensure that the terms selected took into account all legal systems".

The Commission approved the Declaration on 28 February 1992. The General Assembly unanimously adopted the Declaration on 18 December 1992 "as a body of principles for all States" (resolution 47/133).

The adoption of the Declaration reflects the long-standing involvement of the United Nations with the issue. In 1978 the General Assembiy expressed concern about reports from various parts of the world relating to enforced or involuntary disappearances, and called on Governments to hold law-enforcement and security forces legally responsible for such excesses. In 1980 the Commission set up the Working Group on Enforced and Involuntary Disappearances, to examine questions relevant to that problem. The Commission and the Assembly have considered the issue every year as a matter of priority.

In adopting the Declaration, the Assembly stated that it was "deeply concerned that in many countries ... enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law".

"Enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms", the Assembly stated. "The systematic practice of such acts is in the nature of a crime against humanity."

The Assembly stressed the need for a specific instrument against disappearance. "While the acts which comprise enforced disappearance constitute a violation of the prohibitions found in ... international instruments", the Assembly stated, "it is none the less important to devise an

instrument which characterizes all acts of enforced disappearance of persons as very serious offences, setting forth standards designed to punish and prevent their commission."

Two other United Nations instruments complement the 1992 Declaration: the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the Assembly in 1988, and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, endorsed by the Assembly in 1989.

The text of the Declaration is reproduced below.

## Declaration on the Protection of All Persons from Enforced Disappearance

**General Assembly resolution 47/133 of 18 December 1992**

**Article 1**

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Such act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, *inter alia*, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

**Article 2**

1. No State shall practise, permit or tolerate enforced disappearances.

2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

**Article 3**

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

**Article 4**

1. All acts of enforced disappearance shall be offences under the criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.

2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntary information which would contribute to clarifying cases of enforced disappearance.

**Article 5**

In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable at civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

**Article 6**

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.

2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.

3. Training of law enforcement officials shall emphasize the above provisions.

**Article 7**

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

**Article 8**

1. No State shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

**Article 9**

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority

ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7.

2. In such proceedings, competent national authorities shall have access to all places holding persons deprived of their liberty and to each part thereof, as well as to any place in which there are grounds to believe that such persons may be found.

3. Any other competent authority entitled under the law of the State or by any international legal instruments to which a State is a party may also have access to such places.

**Article 10**

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the paragraph above, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

**Article 11**

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.

**Article 12**

1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.

2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

**Article 13**

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.

3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or the investigation procedure is appropriately punished.

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

**Article 14**

Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial unless he has been extradited to another State wishing to exercise jurisdiction in accordance with the

relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring all persons presumed responsible for an act of enforced disappearance, found to be within their jurisdiction or under their control, to justice.

**Article 15**

The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in article 4, paragraph 1, regardless of the motives, shall be taken into account when the competent authorities of the State decide whether or not to grant asylum.

**Article 16**

1. Persons alleged to have committed any of the acts referred to in article 4, paragraph 1, shall be suspended from any official duties during the investigation referred to in article 13.
2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.
3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.
4. The persons presumed responsible for such acts shall be guaranteed fair treatment in accordance with the relevant provisions of the Universal Declaration of Human Rights and other relevant international agreements in force at all stages of the investigation and eventual prosecution and trial.

**Article 17**

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.
2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.
3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

**Article 18**

1. Persons who have, or are alleged to have, committed offences referred to in article 4, paragraph 1, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

2. In the exercise of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

**Article 19**

The victims of acts of enforced disappearance and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation.

**Article 20**

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for, and identification of, such children and to the restitution of the children to their families of origin.

2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review mentioned above, by the child's closest relatives.

3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.

4. For these purposes, States shall, where appropriate, conclude bilateral and multilateral agreements.

**Article 21**

The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of the provisions contained therein.

## United Nations Special Observances

### International Decades and Years

| | |
|---|---|
| 1983-1993 | Second Decade to Combat Racism and Racial Discrimination |
| 1985-1994 | Transport and Communications Decade for Asia and the Pacific |
| 1988-1997 | World Decade for Cultural Development |
| 1990s | International Decade for Natural Disaster Reduction |
| 1990s | Second Industrial Development Decade for Africa |
| 1990s | Third Disarmament Decade |
| 1990-1999 | United Nations Decade of International Law |
| 1990-2000 | International Decade for the Eradication of Colonialism |
| 1991-2000 | Fourth United Nations Development Decade |
| 1991-2000 | Second Transport and Communications Decade in Africa |
| 1991-2000 | United Nations Decade against Drug Abuse |
| 1993-2002 | Asian and Pacific Decade of Disabled Persons |
| 1993 | International Year for the World's Indigenous People |
| 1994 | International Year of the Family |
| 1999 | International Year of Older Persons |

### Annual Days and Weeks

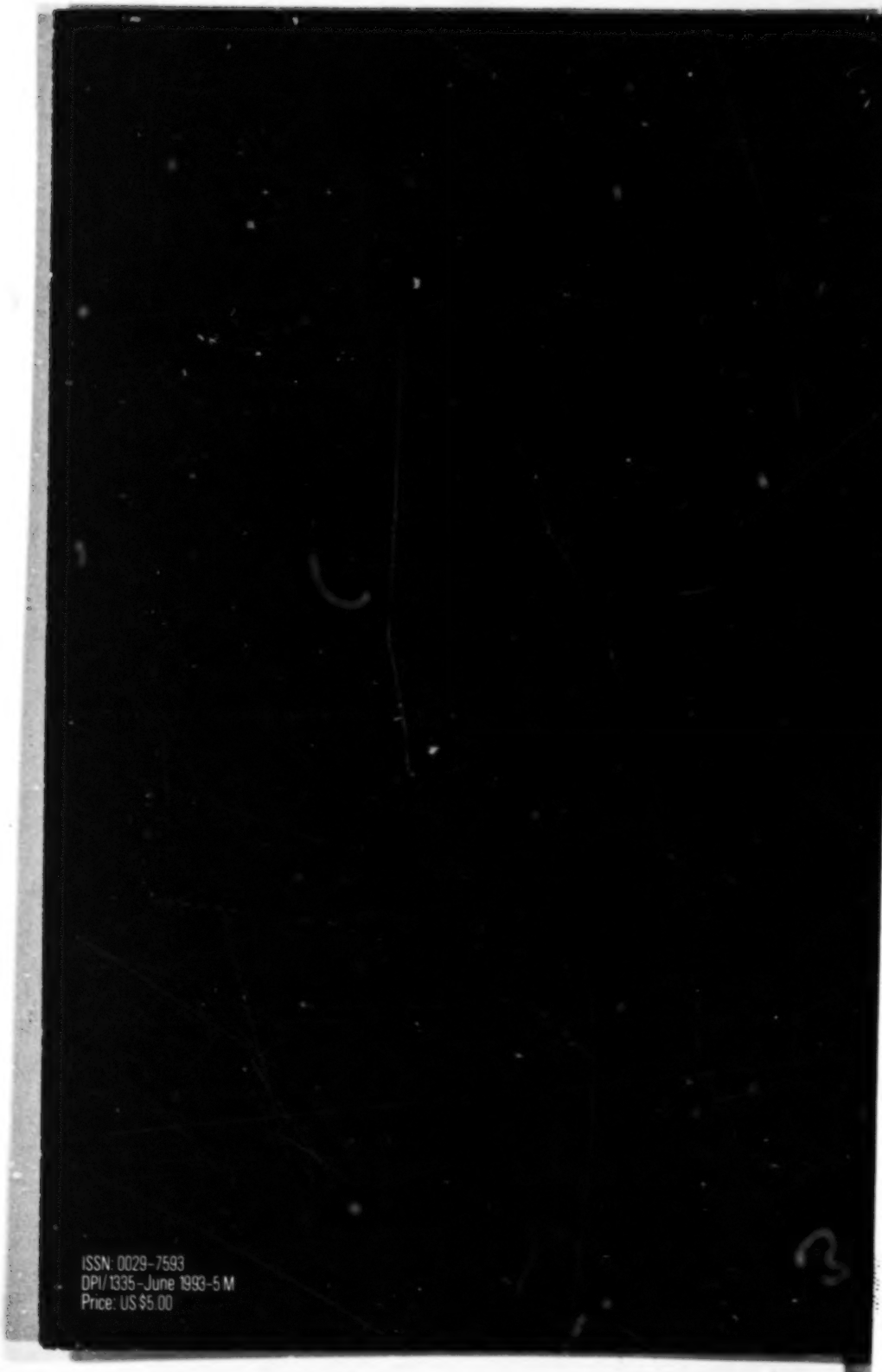
| | |
|---|---|
| 21 March | International Day for the Elimination of Racial Discrimination |
| Beginning 21 March | Week of Solidarity with the Peoples Struggling against Racism and Racial Discrimination |
| 22 March | World Day for Water |

| | |
|---|---|
| Beginning 25 May | Week of Solidarity with the Peoples of All Colonial Territories, as well as Those in South Africa, Fighting for Freedom, Independence and Human Rights |
| 4 June | International Day of Innocent Children Victims of Aggression |
| 5 June | World Environment Day |
| 16 June | International Day of Solidarity with the Struggling People of South Africa |
| 26 June | International Day against Drug Abuse and Illicit Trafficking |
| 11 July | World Population Day |
| 9 August | International Day of Solidarity with the Struggle of Women in South Africa |
| Third Tuesday of September | International Day of Peace |
| 1 October | International Day for the Elderly |
| First Monday of October | World Habitat Day |
| 11 October | Day of Solidarity with South African Political Prisoners |
| Second Wednesday of October | International Day for Natural Disaster Reduction |
| 16 October | World Food Day |
| 17 October | International Day for the Eradication of Poverty |
| 24 October | United Nations Day |
| 24-30 October | Disarmament Week |
| Week of 11 November | International Week of Science and Peace |
| 20 November | Africa Industrialization Day |
| 29 November | International Day of Solidarity with the Palestinian People |
| 1 December | World AIDS Day |
| 3 December | International Day of Disabled Persons |

| | |
|---|---|
| 5 December | International Volunteer Day for Economic and Social Development |
| 10 December | Human Rights Day |

**Other international days**

International Women's Day (8 March), World Meteorological Day (23 March), World Health Day (7 April), World Telecommunication Day (17 May), World No-Tobacco Day (31 May), International Literacy Day (8 September), World Maritime Day (during the last week in September), Universal Children's Day (varies; traditionally, first Monday of October), World Post Day (9 October), World Development Information Day (24 October)



ISSN: 0029-7593
DPI/1335-June 1993-5 M
Price: US $5.00